

107TH CONGRESS  
1ST SESSION

# H. R. 2978

To strengthen existing Federal laws and provide law enforcement agencies with enhanced enforcement tools necessary to combat money laundering, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2001

Mrs. ROUKEMA introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Judiciary, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To strengthen existing Federal laws and provide law enforcement agencies with enhanced enforcement tools necessary to combat money laundering, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Money Laundering Prevention Act”.

6       (b) **TABLE OF CONTENTS.**—The table of contents for  
7       this Act is as follows:

Sec. 1. Short title; table of contents.

## TITLE I—INTERNATIONAL COUNTER—MONEY LAUNDERING MEASURES

Sec. 101. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.

## TITLE II—CURRENCY TRANSACTION REPORTING AMENDMENTS AND RELATED IMPROVEMENTS

- Sec. 201. Amendments relating to reporting of suspicious activities.
- Sec. 202. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders.
- Sec. 203. Authorization to include suspicions of illegal activity in written employment references.
- Sec. 204. Bank Secrecy Act advisory group.
- Sec. 205. Agency reports on reconciling penalty amounts.
- Sec. 206. Bulk cash smuggling into or out of the United States.
- Sec. 207. Forfeiture in currency reporting cases.
- Sec. 208. Interstate currency couriers.
- Sec. 209. Anti-money laundering measures for United States bank accounts involving foreign persons.

## TITLE III—ENHANCED LAW ENFORCEMENT

- Sec. 301. Long-arm jurisdiction over foreign money launderers.
- Sec. 302. Laundering money through a foreign bank.
- Sec. 303. Specified unlawful activity for money laundering.
- Sec. 304. Subpoenas for bank records.
- Sec. 305. Charging money laundering as a course of conduct.
- Sec. 306. Fungible property in bank accounts.
- Sec. 307. Prohibition on false statements to financial institutions concerning the identity of a customer.
- Sec. 308. Forfeiture of funds in United States interbank accounts.

## TITLE IV—ANTICORRUPTION MEASURES

- Sec. 401. Corruption of foreign governments and ruling elites.
- Sec. 402. Support for the financial action task force on money laundering.

1 **TITLE I—INTERNATIONAL**  
 2 **COUNTER-MONEY LAUN-**  
 3 **DERING MEASURES**

4 **SEC. 101. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-**  
 5 **CIAL INSTITUTIONS, OR INTERNATIONAL**  
 6 **TRANSACTIONS OF PRIMARY MONEY LAUN-**  
 7 **DERING CONCERN.**

8 (a) IN GENERAL.—Subchapter II of chapter 53 of  
 9 title 31, United States Code, is amended by inserting after  
 10 section 5318 the following new section:

11 **“§ 5318A. Special measures for jurisdictions, financial**  
 12 **institutions, or international transactions**  
 13 **of primary money laundering concern**

14 **“(a) INTERNATIONAL COUNTER-MONEY LAUN-**  
 15 **DERING REQUIREMENTS.—**

16 **“(1) IN GENERAL.—**The Secretary may require  
 17 domestic financial institutions and domestic financial  
 18 agencies to take 1 or more of the special measures  
 19 described in subsection (b) if the Secretary finds  
 20 that reasonable grounds exist for concluding that a  
 21 jurisdiction outside the United States, 1 or more fi-  
 22 nancial institutions operating outside the United  
 23 States, or 1 or more classes of transactions within,  
 24 or involving, a jurisdiction outside the United States

1 is of primary money laundering concern, in accord-  
2 ance with subsection (c).

3 “(2) FORM OF REQUIREMENT.—The special  
4 measures described in subsection (b) may be im-  
5 posed by regulation, order, or otherwise as permitted  
6 by law, and in such sequence or combination, as the  
7 Secretary shall determine.

8 “(3) PROCESS FOR SELECTING SPECIAL MEAS-  
9 URES.—

10 “(A) CONSULTATION.—In selecting which  
11 special measure or measures to take under this  
12 subsection, the Secretary shall consult with the  
13 Chairman of the Board of Governors of the  
14 Federal Reserve System and, in the Secretary’s  
15 sole discretion, such other agencies and inter-  
16 ested parties as the Secretary may find to be  
17 appropriate.

18 “(B) FACTORS.—The Secretary also shall  
19 consider—

20 “(i) whether similar action has been  
21 or is being taken by other nations or multi-  
22 lateral groups;

23 “(ii) whether the imposition of any  
24 particular special measure would create a  
25 significant competitive disadvantage, in-

cluding any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States; and

“(iii) the extent to which the action would have a significant adverse systemic impact on the international payment, clearance and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, or class of transactions.

“(4) NO LIMITATION ON OTHER AUTHORITY.—

This section shall not be construed as superseding or otherwise restricting any other authority granted to the Secretary, or to any other agency, by this subchapter or otherwise.

“(b) SPECIAL MEASURES.—The special measures referred to in subsection (a), with respect to a jurisdiction outside the United States, financial institution operating outside the United States, or class of transaction within, or involving, a jurisdiction outside the United States, are as follows:

“(1) RECORDKEEPING AND REPORTING OF CERTAIN FINANCIAL TRANSACTIONS.—

1           “(A) IN GENERAL.—The Secretary may re-  
2           quire any domestic financial institution or do-  
3           mestic financial agency to maintain records, file  
4           reports, or both, concerning the aggregate  
5           amount of transactions, or concerning each  
6           transaction, with respect to a jurisdiction out-  
7           side the United States, 1 or more financial in-  
8           stitutions operating outside the United States,  
9           or 1 or more classes of transactions within, or  
10          involving, a jurisdiction outside the United  
11          States, if the Secretary finds any such jurisdic-  
12          tion, institution, or class of transactions to be  
13          of primary money laundering concern.

14          “(B) FORM OF RECORDS AND REPORTS.—  
15          Such records and reports shall be made and re-  
16          tained at such time, in such manner, and for  
17          such period of time, as the Secretary shall de-  
18          termine, and shall include such information as  
19          the Secretary may determine, including—

20                 “(i) the identity and address of the  
21                 participants in a transaction or relation-  
22                 ship, including the identity of the origi-  
23                 nator of any funds transfer;

24                 “(ii) the legal capacity in which a par-  
25                 ticipant in any transaction is acting;

1 “(iii) information concerning the bene-  
2 ficial ownership of the funds involved in  
3 any transaction, in accordance with steps  
4 the Secretary has determined to be reason-  
5 able and practicable to obtain and retain  
6 such information; and

7 “(iv) a description of any transaction.

8 “(2) INFORMATION RELATING TO BENEFICIAL  
9 OWNERSHIP.—In addition to any other requirement  
10 under any other law, the Secretary may require any  
11 domestic financial institution or domestic financial  
12 agency to take such steps as the Secretary may de-  
13 termine to be reasonable and practicable to obtain  
14 and retain information concerning the beneficial  
15 ownership of any account opened or maintained in  
16 the United States by a foreign person (other than a  
17 foreign entity whose shares are subject to public re-  
18 porting requirements or are listed and traded on a  
19 regulated exchange or trading market), or a rep-  
20 resentative of such a foreign person, that involves a  
21 jurisdiction outside the United States, 1 or more fi-  
22 nancial institutions operating outside the United  
23 States, or 1 or more classes of transactions within,  
24 or involving, a jurisdiction outside the United States,  
25 if the Secretary finds any such jurisdiction, institu-

tion, or transaction to be of primary money laundering concern.

“(3) INFORMATION RELATING TO CERTAIN PAYABLE-THROUGH ACCOUNTS.—If the Secretary finds a jurisdiction outside the United States, 1 or more financial institutions operating outside the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a payable-through account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside the United States, or a payable-through account through which any such transaction may be conducted, as a condition of opening or maintaining such account, to—

“(A) identify each customer (and representative of such customer) of such financial institution who is permitted to use, or whose transactions are routed through, such payable-through account; and

“(B) obtain, with respect to each such customer (and each such representative), the same



1 information that the depository institution ob-  
2 tains in the ordinary course of business with re-  
3 spect to its customers residing in the United  
4 States.

5 “(4) INFORMATION RELATING TO CERTAIN COR-  
6 RESPONDENT ACCOUNTS.—If the Secretary finds a  
7 jurisdiction outside the United States, 1 or more fi-  
8 nancial institutions operating outside the United  
9 States, or 1 or more classes of transactions within,  
10 or involving, a jurisdiction outside the United States  
11 to be of primary money laundering concern, the Sec-  
12 retary may require any domestic financial institution  
13 or domestic financial agency that opens or maintains  
14 a correspondent account in the United States for a  
15 foreign financial institution involving any such juris-  
16 diction or any such financial institution operating  
17 outside the United States, or a correspondent ac-  
18 count through which any such transaction may be  
19 conducted, as a condition of opening or maintaining  
20 such account, to—

21 “(A) identify each customer (and rep-  
22 resentative of such customer) of any such finan-  
23 cial institution who is permitted to use, or  
24 whose transactions are routed through, such  
25 correspondent account; and

1           “(B) obtain, with respect to each such cus-  
2           tomer (and each such representative), the same  
3           information that the depository institution ob-  
4           tains in the ordinary course with respect to its  
5           customers residing in the United States.

6           “(5) PROHIBITIONS OR CONDITIONS ON OPEN-  
7           ING OR MAINTAINING CERTAIN CORRESPONDENT OR  
8           PAYABLE-THROUGH ACCOUNTS.—If the Secretary  
9           finds a jurisdiction outside the United States, 1 or  
10          more financial institutions operating outside the  
11          United States, or 1 or more classes of transactions  
12          within, or involving, a jurisdiction outside the United  
13          States to be of primary money laundering concern,  
14          the Secretary, in consultation with the Secretary of  
15          State, the Attorney General, and the Chairman of  
16          the Board of Governors of the Federal Reserve Sys-  
17          tem, may prohibit, or impose conditions upon, the  
18          opening or maintaining in the United States of a  
19          correspondent account or payable-through account  
20          by any domestic financial institution or domestic fi-  
21          nancial agency for or on behalf of a foreign banking  
22          institution if such correspondent account or payable-  
23          through account involves any such jurisdiction or in-  
24          stitution, or if any such transaction may be con-

1       ducted through such correspondent account or pay-  
2       able-through account.

3       “(c) CONSULTATIONS AND INFORMATION TO BE  
4       CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,  
5       OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUN-  
6       DERING CONCERN.—

7               “(1) IN GENERAL.—In making a finding that  
8       reasonable grounds exist for concluding that a juris-  
9       diction outside the United States, 1 or more finan-  
10      cial institutions operating outside the United States,  
11      or 1 or more classes of transactions within, or in-  
12      volving, a jurisdiction outside the United States is of  
13      primary money laundering concern so as to author-  
14      ize the Secretary to invoke 1 or more of the special  
15      measures of subsection (b), the Secretary shall con-  
16      sult with the Secretary of State, the Attorney Gen-  
17      eral, the Secretary of Commerce, and the United  
18      States Trade Representative.

19              “(2) INFORMATION.—The Secretary also shall  
20      consider such information as the Secretary considers  
21      to be relevant, including the following potentially rel-  
22      evant factors:

23                      “(A) In the case of a particular  
24                      jurisdiction—

1 “(i) the extent to which that jurisdic-  
2 tion or financial institutions operating  
3 therein offer bank secrecy or special tax or  
4 regulatory advantages to nonresidents or  
5 nondomiciliaries of such jurisdiction;

6 “(ii) the substance and quality of ad-  
7 ministration of that jurisdiction’s bank su-  
8 pervisory and counter-money laundering  
9 laws;

10 “(iii) the relationship between the vol-  
11 ume of financial transactions occurring in  
12 that jurisdiction and the size of the juris-  
13 diction’s economy;

14 “(iv) the extent to which that jurisdic-  
15 tion is characterized as a tax haven or off-  
16 shore banking or secrecy haven by credible  
17 international organizations or multilateral  
18 expert groups;

19 “(v) whether the United States has a  
20 mutual legal assistance treaty with that ju-  
21 risdiction, and the experience of United  
22 States law enforcement officials, regulatory  
23 officials, and tax administrators in obtain-  
24 ing information about transactions origi-

1 nating in or routed through or to such ju-  
2 risdiction; and

3 “(vi) the extent to which that jurisdic-  
4 tion is characterized by high levels of offi-  
5 cial or institutional corruption.

6 “(B) In the case of a decision to apply 1  
7 or more of the special measures described in  
8 subsection (b) only to a financial institution or  
9 institutions, or to a transaction or class of  
10 transactions, or to both, within, or involving, a  
11 particular jurisdiction—

12 “(i) the extent to which such financial  
13 institutions or transactions are used to fa-  
14 cilitate or promote money laundering in or  
15 through the jurisdiction;

16 “(ii) the extent to which such institu-  
17 tions or transactions are used for legiti-  
18 mate business purposes in such jurisdic-  
19 tion; and

20 “(iii) the extent to which such action  
21 is sufficient to ensure, with respect to  
22 transactions involving such jurisdiction and  
23 institutions operating in such jurisdiction,  
24 that the purposes of this subchapter con-  
25 tinue to be fulfilled, and to guard against

1 international money laundering and other  
2 financial crimes.

3 “(d) NOTIFICATION OF SPECIAL MEASURES IN-  
4 VOKED BY THE SECRETARY.—Within 10 days after the  
5 date of any action taken by the Secretary under subsection  
6 (a)(1), the Secretary shall notify, in writing, the Com-  
7 mittee on Banking and Financial Services of the House  
8 of Representatives and the Committee on Banking, Hous-  
9 ing, and Urban Affairs of the Senate of any such action.

10 “(e) DEFINITIONS.—Notwithstanding any other pro-  
11 vision of this subchapter, for purposes of this section, the  
12 following definitions shall apply:

13 “(1) DEFINED TERMS.—

14 “(A) BANK DEFINITIONS.—The following  
15 definitions shall apply with respect to a bank:

16 “(i) ACCOUNT.—The term ‘account’—

17 “(I) means a formal banking or  
18 business relationship established to  
19 provide regular services, dealings, and  
20 other financial transactions; and

21 “(II) includes a demand deposit,  
22 savings deposit, or other transaction  
23 or asset account and a credit account  
24 or other extension of credit.

1 “(ii) CORRESPONDENT ACCOUNT.—

2 The term ‘correspondent account’ means  
3 an account established to receive deposits  
4 from and make payments on behalf of a  
5 foreign financial institution.

6 “(iii) PAYABLE-THROUGH ACCOUNT.—

7 The term ‘payable-through account’ means  
8 an account, including a transaction ac-  
9 count (as defined in section 19(b)(1)(C) of  
10 the Federal Reserve Act), opened at a de-  
11 pository institution by a foreign financial  
12 institution by means of which the foreign  
13 financial institution permits its customers  
14 to engage, either directly or through a sub-  
15 account, in banking activities usual in con-  
16 nection with the business of banking in the  
17 United States.

18 “(B) DEFINITIONS APPLICABLE TO INSTI-

19 TUTIONS OTHER THAN BANKS.—With respect  
20 to any financial institution other than a bank,  
21 the Secretary shall define, by regulation, order,  
22 or otherwise as permitted by law, the term ‘ac-  
23 count’ and shall include within the meaning of  
24 such term arrangements similar to payable-  
25 through and correspondent accounts.

1           “(2) OTHER TERMS.—The Secretary may, by  
 2           regulation, order, or otherwise as permitted by law,  
 3           further define the terms in paragraph (1) and define  
 4           other terms for the purposes of this section, as the  
 5           Secretary deems appropriate.”.

6           (b) CLERICAL AMENDMENT.—The table of sections  
 7           for subchapter II of chapter 53 of title 31, United States  
 8           Code, is amended by inserting after the item relating to  
 9           section 5318 the following new item:

          “5318A. Special measures for jurisdictions, financial institutions, or inter-  
             national transactions of primary money laundering concern.”.

10   **TITLE    II—CURRENCY    TRANS-**  
 11       **ACTION REPORTING AMEND-**  
 12       **MENTS    AND    RELATED IM-**  
 13       **PROVEMENTS**

14   **SEC. 201. AMENDMENTS RELATING TO REPORTING OF SUS-**  
 15       **PICIOUS ACTIVITIES.**

16           (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-  
 17           MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title  
 18           31, United States Code, is amended to read as follows:

19                   “(3) LIABILITY FOR DISCLOSURES.—

20                           “(A) IN GENERAL.—Any financial institu-  
 21                   tion that makes a voluntary disclosure of any  
 22                   possible violation of law or regulation to a gov-  
 23                   ernment agency or makes a disclosure pursuant  
 24                   to this subsection or any other authority, and



1 any director, officer, employee, or agent of such  
2 institution who makes, or requires another to  
3 make any such disclosure, shall not be liable to  
4 any person under any law or regulation of the  
5 United States, any constitution, law, or regula-  
6 tion of any State or political subdivision of any  
7 State, or under any contract or other legally en-  
8 forceable agreement (including any arbitration  
9 agreement), for such disclosure or for any fail-  
10 ure to provide notice of such disclosure to the  
11 person who is the subject of such disclosure or  
12 any other person identified in the disclosure.

13 “(B) RULE OF CONSTRUCTION.—Subpara-  
14 graph (A) shall not be construed as creating—

15 “(i) any inference that the term ‘per-  
16 son’, as used in such subparagraph, may  
17 be construed more broadly than its ordi-  
18 nary usage so to include any government  
19 or agency of government; or

20 “(ii) any immunity against, or other-  
21 wise affecting, any civil or criminal action  
22 brought by any government or agency of  
23 government to enforce any constitution,  
24 law, or regulation of such government or  
25 agency.”.

1       (b) PROHIBITION ON NOTIFICATION OF DISCLO-  
2 SURES.—Section 5318(g)(2) of title 31, United States  
3 Code, is amended to read as follows:

4               “(2) NOTIFICATION PROHIBITED.—

5               “(A) IN GENERAL.—If a financial institu-  
6 tion or any director, officer, employee, or agent  
7 of any financial institution, voluntarily or pur-  
8 suant to this section or any other authority, re-  
9 ports a suspicious transaction to a government  
10 agency—

11               “(i) the financial institution, director,  
12 officer, employee, or agent may not notify  
13 any person involved in the transaction that  
14 the transaction has been reported; and

15               “(ii) no officer or employee of the  
16 Federal Government or of any State, local,  
17 tribal, or territorial government within the  
18 United States, who has any knowledge that  
19 such report was made may disclose to any  
20 person involved in the transaction that the  
21 transaction has been reported other than  
22 as necessary to fulfill the official duties of  
23 such officer or employee.

24               “(B) DISCLOSURES IN CERTAIN EMPLOY-  
25 MENT REFERENCES.—Notwithstanding the ap-

1           plication of subparagraph (A) in any other con-  
2           text, subparagraph (A) shall not be construed  
3           as prohibiting any financial institution, or any  
4           director, officer, employee, or agent of such in-  
5           stitution, from including, in a written employ-  
6           ment reference that is provided in accordance  
7           with section 18(v) of the Federal Deposit Insur-  
8           ance Act in response to a request from another  
9           financial institution or a written termination  
10          notice or employment reference that is provided  
11          in accordance with the rules of the self-regu-  
12          latory organizations registered with the Securi-  
13          ties and Exchange Commission, information  
14          that was included in a report to which subpara-  
15          graph (A) applies, but such written employment  
16          reference may not disclose that such informa-  
17          tion was also included in any such report or  
18          that such report was made.”.

1 **SEC. 202. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC**  
2 **TARGETING ORDERS AND CERTAIN RECORD-**  
3 **KEEPING REQUIREMENTS, AND LENGTH-**  
4 **ENING EFFECTIVE PERIOD OF GEOGRAPHIC**  
5 **TARGETING ORDERS.**

6 (a) CIVIL PENALTY FOR VIOLATION OF TARGETING  
7 ORDER.—Section 5321(a)(1) of title 31, United States  
8 Code, is amended—

9 (1) by inserting “or order issued” after “sub-  
10 chapter or a regulation prescribed”; and

11 (2) by inserting “, or willfully violating a regu-  
12 lation prescribed under section 21 of the Federal  
13 Deposit Insurance Act or section 123 of Public Law  
14 91–508,” after “section 5314 and 5315”).

15 (b) CRIMINAL PENALTIES FOR VIOLATION OF TAR-  
16 GETING ORDER.—Section 5322 of title 31, United States  
17 Code, is amended—

18 (1) in subsection (a)—

19 (A) by inserting “or order issued” after  
20 “willfully violating this subchapter or a regula-  
21 tion prescribed”; and

22 (B) by inserting “, or willfully violating a  
23 regulation prescribed under section 21 of the  
24 Federal Deposit Insurance Act or section 123  
25 of Public Law 91–508,” after “under section  
26 5315 or 5324”);

1 (2) in subsection (b)—

2 (A) by inserting “or order issued” after  
3 “willfully violating this subchapter or a regula-  
4 tion prescribed”; and

5 (B) by inserting “or willfully violating a  
6 regulation prescribed under section 21 of the  
7 Federal Deposit Insurance Act or section 123  
8 of Public Law 91–508,” after “under section  
9 5315 or 5324),”.

10 (c) STRUCTURING TRANSACTIONS TO EVADE TAR-  
11 GETING ORDER OR CERTAIN RECORDKEEPING REQUIRE-  
12 MENTS.—Section 5324(a) of title 31, United States Code,  
13 is amended—

14 (1) by inserting a comma after “shall”;

15 (2) by striking “section—” and inserting “sec-  
16 tion, the reporting or recordkeeping requirements  
17 imposed by any order issued under section 5326, or  
18 the recordkeeping requirements imposed by any reg-  
19 ulation prescribed under section 21 of the Federal  
20 Deposit Insurance Act or section 123 of Public Law  
21 91–508—”;

22 (3) in paragraph (1) by inserting “, to file a re-  
23 port or to maintain a record required by an order  
24 issued under section 5326, or to maintain a record  
25 required pursuant to any regulation prescribed

1 under section 21 of the Federal Deposit Insurance  
 2 Act or section 123 of Public Law 91–508” after  
 3 “regulation prescribed under any such section”; and  
 4 (4) in paragraph (2) by inserting “, to file a re-  
 5 port or to maintain a record required by any order  
 6 issued under section 5326, or to maintain a record  
 7 required pursuant to any regulation prescribed  
 8 under section 5326, or to maintain a record required  
 9 pursuant to any regulation prescribed under section  
 10 21 of the Federal Deposit Insurance Act or section  
 11 123 of Public Law 91–508,” after “regulation pre-  
 12 scribed under any such section”.

13 (d) LENGTHENING EFFECTIVE PERIOD OF GEO-  
 14 GRAPHIC TARGETING ORDERS.—Section 5326(d) of title  
 15 31, United States Code, is amended by striking “60” after  
 16 “shall be effective for more than” and inserting “180”.

17 **SEC. 203. AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-**  
 18 **LEGAL ACTIVITY IN WRITTEN EMPLOYMENT**  
 19 **REFERENCES.**

20 Section 18 of the Federal Deposit Insurance Act (12  
 21 U.S.C. 1828) is amended by adding at the end the fol-  
 22 lowing new subsection:

23 “(v) WRITTEN EMPLOYMENT REFERENCES MAY  
 24 CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL AC-  
 25 TIVITY.—

1           “(1) IN GENERAL.—Notwithstanding any other  
 2           provision of law, any insured depository institution,  
 3           and any director, officer, employee, or agent of such  
 4           institution, may disclose in any written employment  
 5           reference relating to a current or former institution-  
 6           affiliated party of such institution which is provided  
 7           to another insured depository institution in response  
 8           to a request from such other institution, information  
 9           concerning the possible involvement of such institu-  
 10          tion-affiliated party in potentially unlawful activity.

11           “(2) DEFINITION.—For purposes of this sub-  
 12          section, the term ‘insured depository institution’ in-  
 13          cludes any uninsured branch or agency of a foreign  
 14          bank.”.

15 **SEC. 204. BANK SECRECY ACT ADVISORY GROUP.**

16          Section 1564 of the Annunzio-Wylie Anti-Money  
 17          Laundering Act (31 U.S.C. 5311 note) is amended—

18           (1) in subsection (a), by inserting “, of non-  
 19          governmental organizations advocating financial pri-  
 20          vacy,” after “Drug Control Policy”; and

21           (2) in subsection (c), by inserting “, other than  
 22          subsections (a) and (d) of such Act which shall  
 23          apply” before the period at the end.

1 **SEC. 205. AGENCY REPORTS ON RECONCILING PENALTY**  
2 **AMOUNTS.**

3 Before the end of the 1-year period beginning on the  
4 date of the enactment of this Act, the Secretary of the  
5 Treasury and the Federal banking agencies (as defined in  
6 section 3 of the Federal Deposit Insurance Act) shall each  
7 submit their respective reports to the Congress containing  
8 recommendations on possible legislation to conform the  
9 penalties imposed on depository institutions (as defined in  
10 section 3 of the Federal Deposit Insurance Act) for viola-  
11 tions of subchapter II of chapter 53 of title 31, United  
12 States Code, to the penalties imposed on such institutions  
13 under section 8 of the Federal Deposit Insurance Act.

14 **SEC. 206. BULK CASH SMUGGLING INTO OR OUT OF THE**  
15 **UNITED STATES.**

16 (a) ENACTMENT OF BULK CASH SMUGGLING OF-  
17 FENSE.—Subchapter II of chapter 53 of title 31, United  
18 States Code, is amended by adding at the end the fol-  
19 lowing:

20 **“§ 5331. Bulk cash smuggling into or out of the**  
21 **United States**

22 **“(a) CRIMINAL OFFENSE.—**

23 **“(1) IN GENERAL.—**Whoever, with the intent to  
24 evade a currency reporting requirement under sec-  
25 tion 5316, knowingly conceals more than \$10,000 in  
26 currency or other monetary instruments on the per-



1 son of such individual or in any conveyance, article  
2 of luggage, merchandise, or other container, and  
3 transports or transfers or attempts to transport or  
4 transfer such currency or monetary instruments  
5 from a place within the United States to a place out-  
6 side of the United States, or from a place outside  
7 the United States to a place within the United  
8 States, shall be guilty of a currency smuggling of-  
9 fense and subject to punishment pursuant to sub-  
10 section (b).

11 “(2) CONCEALMENT ON PERSON.—For pur-  
12 poses of this section, the concealment of currency on  
13 the person of any individual includes concealment in  
14 any article of clothing worn by the individual or in  
15 any luggage, backpack, or other container worn or  
16 carried by such individual.

17 “(b) PENALTY.—

18 “(1) TERM OF IMPRISONMENT.—A person con-  
19 victed of a currency smuggling offense under sub-  
20 section (a), or a conspiracy to commit such offense,  
21 shall be imprisoned for not more than 5 years.

22 “(2) FORFEITURE.—In addition, the court, in  
23 imposing sentence under paragraph (1), shall order  
24 that the defendant forfeit to the United States, any  
25 property, real or personal, involved in the offense,

1 and any property traceable to such property, subject  
2 to subsection (d) of this section.

3 “(3) PROCEDURE.—The seizure, restraint, and  
4 forfeiture of property under this section shall be gov-  
5 erned by section 413 of the Controlled Substances  
6 Act.

7 “(4) PERSONAL MONEY JUDGMENT.—If the  
8 property subject to forfeiture under paragraph (2) is  
9 unavailable, and the defendant has insufficient sub-  
10 stitute property that may be forfeited pursuant to  
11 section 413(p) of the Controlled Substances Act, the  
12 court shall enter a personal money judgment against  
13 the defendant for the amount that would be subject  
14 to forfeiture.

15 “(c) CIVIL FORFEITURE.—

16 “(1) IN GENERAL.—Any property involved in a  
17 violation of subsection (a), or a conspiracy to com-  
18 mit such violation, and any property traceable to  
19 such violation or conspiracy, may be seized and, sub-  
20 ject to subsection (d) of this section, forfeited to the  
21 United States.

22 “(2) PROCEDURE.—The seizure and forfeiture  
23 shall be governed by the procedures governing civil  
24 forfeitures in money laundering cases pursuant to  
25 section 981(a)(1)(A) of title 18, United States Code.

1           “(3) TREATMENT OF CERTAIN PROPERTY AS  
2 INVOLVED IN THE OFFENSE.—For purposes of this  
3 subsection and subsection (b), any currency or other  
4 monetary instrument that is concealed or intended  
5 to be concealed in violation of subsection (a) or a  
6 conspiracy to commit such violation, any article, con-  
7 tainer, or conveyance used, or intended to be used,  
8 to conceal or transport the currency or other mone-  
9 tary instrument, and any other property used, or in-  
10 tended to be used, to facilitate the offense, shall be  
11 considered property involved in the offense.

12           “(d) PROPORTIONALITY OF FORFEITURE.—

13           “(1) IN GENERAL.—Upon a showing by the  
14 property owner by a preponderance of the evidence  
15 that the currency or monetary instruments involved  
16 in the offense giving rise to the forfeiture were de-  
17 rived from a legitimate source, and were intended  
18 for a lawful purpose, the court shall reduce the for-  
19 feiture to the maximum amount that is not grossly  
20 disproportional to the gravity of the offense.

21           “(2) FACTORS TO BE CONSIDERED.—In deter-  
22 mining the amount of the forfeiture, the court shall  
23 consider all aggravating and mitigating facts and  
24 circumstances that have a bearing on the gravity of  
25 the offense, including the following:

1           “(A) The value of the currency or other  
2           monetary instruments involved in the offense.

3           “(B) Efforts by the person committing the  
4           offense to structure currency transactions, con-  
5           ceal property, or otherwise obstruct justice.

6           “(C) Whether the offense is part of a pat-  
7           tern of repeated violations of Federal law.”.

8           (b) CONFORMING AMENDMENT.—The table of sec-  
9           tions for subchapter II of chapter 53 of title 31, United  
10          States Code, is amended by inserting after the item relat-  
11          ing to section 5330, the following new item:

          “5331. Bulk cash smuggling into or out of the United States.”.

12       **SEC. 207. FORFEITURE IN CURRENCY REPORTING CASES.**

13           (a) IN GENERAL.—Subsection (c) of section 5317 of  
14          title 31, United States Code, is amended to read as fol-  
15          lows:

16           “(c) FORFEITURE.—

17               “(1) IN GENERAL.—The court in imposing sen-  
18               tence for any violation of section 5313, 5316, or  
19               5324, or any conspiracy to commit such violation,  
20               shall order the defendant to forfeit all property, real  
21               or personal, involved in the offense and any property  
22               traceable thereto.

23               “(2) PROCEDURE.—Forfeitures under this sub-  
24               section shall be governed by the procedures estab-

lished in section 413 of the Controlled Substances Act and the guidelines established in paragraph (4).

“(3) CIVIL FORFEITURE.—Any property involved in a violation of section 5313, 5316, or 5324, or any conspiracy to commit any such violation, and any property traceable to any such violation or conspiracy, may be seized and, subject to paragraph (4), forfeited to the United States in accordance with the procedures governing civil forfeitures in money laundering cases pursuant to section 981(a)(1)(A) of title 18, United States Code.

“(4) PROPORTIONALITY OF FORFEITURE.—

“(A) IN GENERAL.—Upon a showing by the property owner by a preponderance of the evidence that any currency or monetary instruments involved in the offense giving rise to the forfeiture were derived from a legitimate source, and were intended for a lawful purpose, the court shall reduce the forfeiture to the maximum amount that is not grossly disproportional to the gravity of the offense.

“(B) FACTORS TO BE CONSIDERED.—In determining the amount of the forfeiture, the court shall consider all aggravating and mitigating facts and circumstances that have a

1 bearing on the gravity of the offense, including  
2 the following:

3 “(i) The value of the currency or  
4 other monetary instruments involved in the  
5 offense.

6 “(ii) Efforts by the person committing  
7 the offense to structure currency trans-  
8 actions, conceal property, or otherwise ob-  
9 struct justice.

10 “(iii) Whether the offense is part of a  
11 pattern of repeated violations of Federal  
12 law.”.

13 (b) CONFORMING AMENDMENTS.—(1) Section  
14 981(a)(1)(A) of title 18, United States Code, is amended  
15 by striking “of section 5313(a) or 5324(a) of title 31, or”.

16 (2) Section 982(a)(1) of title 18, United States Code,  
17 is amended by striking “of 5313(a), 5316, or 5324 of title  
18 31, or”.

19 **SEC. 208. INTERSTATE CURRENCY COURIERS.**

20 Section 1957 of title 18, United States Code, is  
21 amended by adding at the end the following new sub-  
22 section:

23 “(g) Any person who conceals more than \$10,000 in  
24 currency on his or her person, in any vehicle, in any com-  
25 partment or container within any vehicle, or in any con-

1 tainer placed in a common carrier, and transports, at-  
 2 tempts to transport, or conspires to transport such cur-  
 3 rency in interstate commerce on any public road or high-  
 4 way or on any bus, train, airplane, vessel, or other com-  
 5 mon carrier, knowing that the currency was derived from  
 6 some form of unlawful activity, or knowing that the cur-  
 7 rency was intended to be used to promote some form of  
 8 unlawful activity, shall be punished as provided in sub-  
 9 section (b). The defendant's knowledge may be established  
 10 by proof that the defendant was willfully blind to the  
 11 source or intended use of the currency. For purposes of  
 12 this subsection, the concealment of currency on the person  
 13 of any individual includes concealment in any article of  
 14 clothing worn by the individual or in any luggage, back-  
 15 pack, or other container worn or carried by such indi-  
 16 vidual.”.

17 **SEC. 209. ANTI-MONEY LAUNDERING MEASURES FOR**  
 18 **UNITED STATES BANK ACCOUNTS INVOLVING**  
 19 **FOREIGN PERSONS.**

20 (a) REQUIREMENTS RELATING TO UNITED STATES  
 21 BANK ACCOUNTS INVOLVING FOREIGN PERSONS.—Sub-  
 22 chapter II of chapter 53 of title 31, United States Code,  
 23 is amended by inserting after section 5318 the following:

1 **“§ 5318A. Requirements relating to United States**  
2 **bank accounts involving foreign persons**

3 “(a) DEFINITIONS.—

4 “(1) IN GENERAL.—In this section, the fol-  
5 lowing definitions shall apply:

6 “(A) ACCOUNT.—The term ‘account’—

7 “(i) means a formal banking or busi-  
8 ness relationship established to provide  
9 regular services, dealings, or financial  
10 transactions; and

11 “(ii) includes a demand deposit, sav-  
12 ings deposit, or other transaction or asset  
13 account, and a credit account or other ex-  
14 tension of credit.

15 “(B) BRANCH OR AGENCY OF A FOREIGN  
16 BANK.—The term ‘branch or agency of a for-  
17 eign bank’ has the meanings given those terms  
18 in section 1 of the International Banking Act of  
19 1978 (12 U.S.C. 3101).

20 “(C) CORRESPONDENT ACCOUNT.—The  
21 term ‘correspondent account’ means an account  
22 established for a depository institution, credit  
23 union, or foreign bank.

24 “(D) CORRESPONDENT BANK.—The term  
25 ‘correspondent bank’ means a depository insti-  
26 tution, credit union, or foreign bank that estab-



1 lishes a correspondent account for and provides  
2 banking services to a depository institution,  
3 credit union, or foreign bank.

4 “(E) COVERED FINANCIAL INSTITUTION.—  
5 The term ‘covered financial institution’  
6 means—

7 “(i) a depository institution;

8 “(ii) a credit union; and

9 “(iii) a branch or agency of a foreign  
10 bank.

11 “(F) CREDIT UNION.—The term ‘credit  
12 union’ means any insured credit union, as de-  
13 fined in section 101 of the Federal Credit  
14 Union Act (12 U.S.C. 1752), or any credit  
15 union that is eligible to make application to be-  
16 come an insured credit union pursuant to sec-  
17 tion 201 of the Federal Credit Union Act (12  
18 U.S.C. 1781).

19 “(G) DEPOSITORY INSTITUTION.—The  
20 term ‘depository institution’ has the same  
21 meaning as in section 3 of the Federal Deposit  
22 Insurance Act (12 U.S.C. 1813).

23 “(H) FOREIGN BANK.—The term ‘foreign  
24 bank’ has the same meaning as in section 1 of

1 the International Banking Act of 1978 (12  
2 U.S.C. 3101).

3 “(I) FOREIGN COUNTRY.—The term ‘for-  
4 eign country’ has the same meaning as in sec-  
5 tion 1 of the International Banking Act of 1978  
6 (12 U.S.C. 3101).

7 “(J) FOREIGN PERSON.—The term ‘for-  
8 eign person’ means any foreign organization or  
9 any individual resident in a foreign country or  
10 any organization or individual owned or con-  
11 trolled by such an organization or individual.

12 “(K) OFFSHORE BANKING LICENSE.—The  
13 term ‘offshore banking license’ means a license  
14 to conduct banking activities which, as a condi-  
15 tion of the license, prohibits the licensed entity  
16 from conducting banking activities with the citi-  
17 zens of, or with the local currency of, the for-  
18 eign country which issued the license.

19 “(L) PRIVATE BANK ACCOUNT.—The term  
20 ‘private bank account’ means an account (or  
21 combination of accounts) that—

22 “(i) requires a minimum aggregate  
23 deposit of funds or assets in an amount  
24 equal to not less than \$1,000,000;

1 “(ii) is established on behalf of 1 or  
2 more individuals who have a direct or ben-  
3 efcial ownership interest in the account;  
4 and

5 “(iii) is assigned to, administered, or  
6 managed in whole or in part by an em-  
7 ployee of a fnancial institution acting as a  
8 liaison between the institution and the di-  
9 rect or beneficial owner of the account.

10 “(2) OTHER TERMS.—After consultation with  
11 the Board of Governors of the Federal Reserve Sys-  
12 tem, the Secretary may, by regulation, order, or oth-  
13 erwise as permitted by law, define any term that is  
14 used in this section and that is not otherwise defined  
15 in this section or section 5312, as the Secretary  
16 deems appropriate.

17 “(b) UNITED STATES BANK ACCOUNTS WITH UN-  
18 IDENTIFIED FOREIGN OWNERS.—

19 “(1) RECORDS.—

20 “(A) IN GENERAL.—A covered fnancial in-  
21 stitution shall not establish, maintain, admin-  
22 ister, or manage an account in the United  
23 States for a foreign person or a representative  
24 of a foreign person, unless the covered fnancial  
25 institution maintains in the United States, for

1 each such account, a record identifying, by a  
2 verifiable name and account number, each indi-  
3 vidual or entity having a direct or beneficial  
4 ownership interest in the account.

5 “(B) PUBLICLY TRADED CORPORATIONS.—

6 A record required under subparagraph (A) that  
7 identifies an entity, the shares of which are  
8 publicly traded on a stock exchange regulated  
9 by an organization or agency that is a member  
10 of and endorses the principles of the Inter-  
11 national Organization of Securities Commis-  
12 sions (in this section referred to as ‘publicly  
13 traded’), is not required to identify individual  
14 shareholders of the entity.

15 “(C) FOREIGN BANKS.—In the case of a

16 correspondent account that is established for a  
17 foreign bank, the shares of which are not pub-  
18 licly traded, the record required under subpara-  
19 graph (A) shall identify each of the owners of  
20 the foreign bank, and the nature and extent of  
21 the ownership interest of each such owner.

22 “(2) COMPLEX OWNERSHIP INTERESTS.—The

23 Secretary may, by regulation, order, or otherwise as  
24 permitted by law, further delineate the information  
25 to be maintained in the United States under para-

1 graph (1)(A), including information for accounts  
2 with multiple, complex, or changing ownership inter-  
3 ests.

4 “(c) PROHIBITION ON UNITED STATES COR-  
5 RESPONDENT ACCOUNTS WITH FOREIGN SHELL  
6 BANKS.—

7 “(1) IN GENERAL.—A covered financial institu-  
8 tion shall not establish, maintain, administer, or  
9 manage a correspondent account in the United  
10 States for, or on behalf of, a foreign bank that does  
11 not have a physical presence in any country.

12 “(2) PREVENTION OF INDIRECT SERVICE TO  
13 FOREIGN SHELL BANKS.—A covered financial insti-  
14 tution shall take reasonable steps to ensure that any  
15 correspondent account established, maintained, ad-  
16 ministered, or managed by that covered financial in-  
17 stitution in the United States for a foreign bank is  
18 not being used by that foreign bank to indirectly  
19 provide banking services to another foreign bank  
20 that does not have a physical presence in any coun-  
21 try.

22 “(3) EXCEPTION.—Paragraphs (1) and (2) do  
23 not prohibit a covered financial institution from pro-  
24 viding a correspondent account to a foreign bank, if  
25 the foreign bank—

1           “(A) is an affiliate of a depository institu-  
2           tion, credit union, or other foreign bank that  
3           maintains a physical presence in the United  
4           States or a foreign country, as applicable; and

5           “(B) is subject to supervision by a banking  
6           authority in the country regulating the affili-  
7           ated depository institution, credit union, or for-  
8           eign bank, described in subparagraph (A), as  
9           applicable.

10          “(4) DEFINITIONS.—For purposes of this  
11          subsection—

12               “(A) the term ‘affiliate’ means a foreign  
13               bank that is controlled by or is under common  
14               control with a depository institution, credit  
15               union, or foreign bank; and

16               “(B) the term ‘physical presence’ means a  
17               place of business that—

18                       “(i) is maintained by a foreign bank;

19                       “(ii) is located at a fixed address  
20                       (other than solely an electronic address) in  
21                       a country in which the foreign bank is au-  
22                       thorized to conduct banking activities, at  
23                       which location the foreign bank—

24                               “(I) employs 1 or more individ-  
25                               uals on a full-time basis; and

1 “(II) maintains operating records  
2 related to its banking activities; and  
3 “(iii) is subject to inspection by the  
4 banking authority which licensed the for-  
5 eign bank to conduct banking activities.

6 “(d) DUE DILIGENCE FOR UNITED STATES PRIVATE  
7 BANK AND CORRESPONDENT BANK ACCOUNTS INVOLV-  
8 ING FOREIGN PERSONS.—

9 “(1) IN GENERAL.—Each covered financial in-  
10 stitution that establishes, maintains, administers, or  
11 manages a private bank account or a correspondent  
12 account in the United States for a foreign person or  
13 a representative of a foreign person shall establish  
14 enhanced due diligence policies, procedures, and con-  
15 trols to prevent, detect, and report possible instances  
16 of money laundering through those accounts.

17 “(2) MINIMUM STANDARDS.—The enhanced  
18 due diligence policies, procedures, and controls re-  
19 quired under paragraph (1) of this subsection, shall,  
20 at a minimum, ensure that the covered financial  
21 institution—

22 “(A) ascertains the identity of each indi-  
23 vidual or entity having a direct or beneficial  
24 ownership interest in the account, and obtains  
25 sufficient information about the background of

1 the individual or entity and the source of funds  
2 deposited into the account as is needed to  
3 guard against money laundering;

4 “(B) monitors such accounts on an ongo-  
5 ing basis to prevent, detect, and report possible  
6 instances of money laundering;

7 “(C) conducts enhanced scrutiny of any  
8 private bank account requested or maintained  
9 by, or on behalf of, a senior foreign political fig-  
10 ure, or any immediate family member or close  
11 associate of a senior foreign political figure, to  
12 prevent, detect, and report transactions that  
13 may involve the proceeds of foreign corruption;

14 “(D) conducts enhanced scrutiny of any  
15 correspondent account requested or maintained  
16 by, or on behalf of, a foreign bank operating—

17 “(i) under an offshore banking li-  
18 cense; or

19 “(ii) under a banking license issued  
20 by a foreign country that has been  
21 designated—

22 “(I) as noncooperative with inter-  
23 national anti-money laundering prin-  
24 ciples or procedures by an intergov-  
25 ernmental group or organization of



1 which the United States is a member;  
2 or

3 “(II) by the Secretary as war-  
4 ranting special measures due to  
5 money laundering concerns; and

6 “(E) ascertains, as part of the enhanced  
7 scrutiny under subparagraph (D), whether the  
8 foreign bank provides correspondent accounts to  
9 other foreign banks and, if so, the identity of  
10 those foreign banks and related due diligence  
11 information, as appropriate, under paragraph  
12 (1).”.

13 (b) REGULATORY AUTHORITY.—After consultation  
14 with the Board of Governors of the Federal Reserve Sys-  
15 tem, the Secretary of the Treasury may, by regulation,  
16 order, or otherwise as permitted by law, take measures  
17 that the Secretary deems appropriate to carry out section  
18 5318A of title 31, United States Code (as added by this  
19 section).

20 (c) CONFORMING AMENDMENTS.—Section 5312(a) of  
21 title 31, United States Code, is amended—

22 (1) by redesignating paragraph (5) as para-  
23 graph (6); and

24 (2) by inserting after paragraph (4) the fol-  
25 lowing:

“5318A. Requirements relating to United States bank accounts involving foreign persons.”.

14       **TITLE III—ENHANCED LAW**  
15       **ENFORCEMENT**

Section 1956(b) of title 18, United States Code, is amended—

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1           (3) by striking “subsection (a)(1) or (a)(3),”  
2           and inserting “subsection (a)(1) or (a)(3)(2) or sec-  
3           tion 1957,”; and

4           (4) by adding at the end the following new  
5           paragraph:

6           “(2) For purposes of adjudicating an action  
7           filed or enforcing a penalty ordered under this sec-  
8           tion, the district courts shall have jurisdiction over  
9           any foreign person, including any financial institu-  
10          tion authorized under the laws of a foreign country,  
11          against whom the action is brought, if—

12               “(A) service of process upon such foreign  
13              person is made under the Federal Rules of Civil  
14              Procedure or the laws of the country where the  
15              foreign person is found; and

16               “(B) the foreign person—

17                   “(i) commits an offense under sub-  
18                  section (a) involving a financial transaction  
19                  that occurs in whole or in part in the  
20                  United States;

21                   “(ii) converts to such person’s own  
22                  use property in which the United States  
23                  has an ownership interest by virtue of the  
24                  entry of an order of forfeiture by a court  
25                  of the United States; or

1                   “(iii) is a financial institution that  
2                   maintains a correspondent bank account at  
3                   a financial institution in the United States.

4                   “(3) The court may issue a pretrial restraining  
5                   order or take any other action necessary to ensure  
6                   that any bank account or other property held by the  
7                   defendant in the United States is available to satisfy  
8                   a judgment under this section.”.

9   **SEC. 302. LAUNDERING MONEY THROUGH A FOREIGN**  
10                   **BANK.**

11                   Section 1956(c)(6) of title 18, United States Code,  
12                   is amended to read as follows:

13                   “(6) the term ‘financial institution’ includes any  
14                   financial institution described in section 5312(a)(2)  
15                   of title 31, United States Code, or the regulations  
16                   promulgated thereunder, as well as any foreign  
17                   bank, as defined in paragraph (7) of section 1(b) of  
18                   the International Banking Act of 1978 (12 U.S.C.  
19                   3101(7)).”.

20   **SEC. 303. SPECIFIED UNLAWFUL ACTIVITY FOR MONEY**  
21                   **LAUNDERING.**

22                   (a) IN GENERAL.—Section 1956(c)(7) of title 18,  
23                   United States Code, is amended—

24                   (1) in subparagraph (B)—

1 (A) by striking clause (ii) and inserting the  
2 following new clause:

3 “(ii) any act or acts constituting a  
4 crime of violence, as defined in Section 16  
5 of this title;”; and

6 (B) by inserting after clause (iii) the fol-  
7 lowing new clauses:

8 “(iv) fraud or any scheme to defraud  
9 committed against an individual or entity  
10 (other than a foreign government or gov-  
11 ernment entity) provided such conduct  
12 would constitute a fraud or scheme to de-  
13 fraud under the laws of the United States  
14 or its constituent parts if committed in the  
15 United States;

16 “(v) fraud or any scheme to defraud  
17 against a foreign government or foreign  
18 government entity, provided such conduct  
19 would constitute a violation of Title 18 of  
20 the United States Code if it were com-  
21 mitted in interstate commerce in the  
22 United States and against the United  
23 States government or a United States gov-  
24 ernmental entity;

1 “(vi) bribery of a public official, or  
2 the misappropriation, theft, or embezzle-  
3 ment of public funds by or for the benefit  
4 of a public official;

5 “(vii) smuggling or export control vio-  
6 lations involving munitions listed in the  
7 United States Munitions List or tech-  
8 nologies with military applications as de-  
9 fined in the Commerce Control List of the  
10 Export Administration Regulations; or

11 “(viii) an offense with respect to  
12 which the United States would be obligated  
13 by a multilateral treaty either to extradite  
14 the alleged offender or to submit the case  
15 for prosecution, if the offender were found  
16 within the territory of the United States.”;  
17 and

18 (2) in subparagraph (D)—

19 (A) by inserting “section 541 (relating to  
20 goods falsely classified),” before “section 542”;

21 (B) by inserting “section 922(1) (relating  
22 to the unlawful importation of firearms), sec-  
23 tion 924(n) (relating to firearms trafficking),”  
24 before “section 956”;

1 (C) by inserting “section 1030 (relating to  
2 computer fraud and abuse),” before “1032”;

3 (D) by inserting “any felony violation of  
4 the Foreign Agents Registration Act of 1938,  
5 as amended,” before “or any felony violation of  
6 the Foreign Corrupt Practices Act”; and

7 (E) by striking “fraud in the sale of secu-  
8 rities” and inserting “fraud in the purchase or  
9 sale of securities”.

10 (3) in paragraph (E), by striking “or” and in-  
11 serting “, or the Clean Air Act (42 U.S.C. 7401 et  
12 seq.), or any wildlife protection offense, as defined in  
13 section 49,” after “the Resources Conservation and  
14 Recovery Act (42 U.S.C. 6901 et seq.)”.

15 (4) by inserting the following after paragraph  
16 (F):

17 “(G) any violation of the Archeological Re-  
18 sources Protection Act (16 U.S.C. 470aa, et  
19 seq.), or the Native American Graves Protection  
20 and Repatriation Act (25 U.S.C. 3001, et seq.).

21 (b)(1) BURGLARY AND EMBEZZLEMENT.—Section  
22 1961(1)(A) of title 18, United States Code, is amended  
23 by inserting “burglary, embezzlement,” after “robbery,”.

1       (2) ALIEN SMUGGLING.—Section 1961(1)(F) of title  
 2 18, United States Code, is amended by inserting “and  
 3 274A” after “274”.

4       (c) WILDLIFE PROTECTION OFFENSE.—

5           (1) Chapter 3 of title 18, United States Code,  
 6 is amended by inserting after section 48 the fol-  
 7 lowing new section:

8 **“§ 49. DEFINITION OF WILDLIFE PROTECTION OF-**  
 9 **FENSE.**

10       “(a) As used in this title, the term ‘wildlife protection  
 11 offense’ means any violation of a provision of this chapter  
 12 or of any Act listed in subsection (b), or any regulation  
 13 promulgated thereunder, that may be prosecuted as a  
 14 criminal offense.

15       “(b) The statutes referred to in subsection (a) include  
 16 the following:

17           “(1) the Lacey Act (16 U.S.C. 3371–78 and 18  
 18 U.S.C. 42;

19           “(2) the Endangered Species Act (16 U.S.C.  
 20 1538);

21           “(3) the Marine Mammal Protection Act (16  
 22 U.S.C. 1372);

23           “(4) the African Elephant Conservation Act (16  
 24 U.S.C. 4222–23);



1           “(5) the Wild Exotic Bird Conservation Act (16  
2       U.S.C. 4910);

3           “(6) the Eagle Protection Act (16 U.S.C. 668);

4           “(7) the Migratory Bird Treaty Act (16 U.S.C.  
5       703);

6           “(8) the Migratory Bird Conservation Stamp  
7       Act (16 U.S.C. 718f);

8           “(9) the Airborne Hunting Act (16 U.S.C.  
9       742j-1);

10          “(10) the Antarctic Conservation Act (16  
11       U.S.C. 2403);

12          “(11) the National Wildlife Refuge System Ad-  
13       ministration Act (16 U.S.C. 668dd);

14          “(12) the Rhinoceros and Tiger Conservation  
15       Act (16 U.S.C. 5305a);

16          “(13) the Federal Cave Resources Protection  
17       Act (16 U.S.C. 4306); or

18          “(14) the Antarctic Marine Living Resources  
19       Convention (16 U.S.C. 2435).”.

20               (2) The table of sections for Chapter 3 of title  
21       18, United States Code, is amended by inserting  
22       after the item relating to section 48 the following  
23       new item:

“49. Definition of wildlife protection offense.”.

1 **SEC. 304. SUBPOENAS FOR BANK RECORDS.**

2 Section 986 of title 18, United States Code, is  
3 amended—

4 (1) in subsection (a)—

5 (A) by inserting “(1)” before “At any  
6 time”;

7 (B) by striking “section 1956, 1957, or  
8 1960 of this title, section 5322 or 5324 of title  
9 31, United States Code” and inserting “section  
10 981 or 982 of this title”;

11 (C) by striking “in rem”; and

12 (D) by striking the last sentence and in-  
13 serting the following:

14 “(2) The United States may request the Clerk  
15 of the Court in any district where a civil forfeiture  
16 action may be filed pursuant to 28 U.S.C. 1355(b)  
17 to issue a subpoena duces tecum under paragraph  
18 (1) before the filing of the verified complaint.”

19 (2) in subsection (c), by inserting “or the Fed-  
20 eral Rules of Criminal Procedure” after “Proce-  
21 dure”.

22 **SEC. 305. CHARGING MONEY LAUNDERING AS A COURSE OF**  
23 **CONDUCT.**

24 Section 1956(h) of title 18, United States Code, is  
25 amended—

1           (1) by striking “any person” and inserting “(1)  
2    Any person”; and

3           (2) by adding at the end the following new  
4    paragraph:

5           “(2) Any person who commits multiple viola-  
6    tions of this section or Section 1957 that are part  
7    of the same scheme or continuing course of conduct  
8    may be charged, at the election of the Government,  
9    in a single count in an indictment or information.”.

10 **SEC. 306. FUNGIBLE PROPERTY IN BANK ACCOUNTS.**

11       (a) IN GENERAL.—Section 984 of title 18, United  
12 States Code, is amended by striking subsection (b) and  
13 inserting the following:

14       “(b) The provisions of this section may be invoked  
15 only if the action for forfeiture was commenced by the sei-  
16 zure or restraint of the property, or by the filing of a com-  
17 plaint, within 2 years of the completion of the offense that  
18 is the basis for the forfeiture.”.

19       (b) APPLICATION.—The amendments made by this  
20 section shall apply to any offense whether or not com-  
21 mitted before the effective date of the Act.

1 **SEC. 307. PROHIBITION ON FALSE STATEMENTS TO FINAN-**  
2 **CIAL INSTITUTIONS CONCERNING THE IDEN-**  
3 **TITY OF A CUSTOMER.**

4 (a) IN GENERAL.—Chapter 47 of title 18, United  
5 States Code, is amended by inserting after section 1007  
6 the following:

7 **“§ 1008. False statements concerning the identity of**  
8 **customers of financial institutions**

9 “(a) IN GENERAL.—Whoever knowingly in any  
10 manner—

11 “(1) falsifies, conceals, or covers up, or at-  
12 tempts to falsify, conceal, or cover up, the identity  
13 of any person in connection with any transaction  
14 with a financial institution;

15 “(2) makes, or attempts to make, any materi-  
16 ally false, fraudulent, or fictitious statement or rep-  
17 resentation of the identity of any person in connec-  
18 tion with a transaction with a financial institution;

19 “(3) makes or uses, or attempts to make or  
20 use, any false writing or document knowing the  
21 same to contain any materially false, fictitious, or  
22 fraudulent statement or entry concerning the iden-  
23 tity of any person in connection with a transaction  
24 with a financial institution; or

25 “(4) uses or presents, or attempts to use or  
26 present, in connection with a transaction with a fi-

1        nancial institution, an identification document or  
 2        means of identification the possession of which is a  
 3        violation of section 1028;

4        shall be fined under this title, imprisoned not more than  
 5        5 years, or both.

6        “(b) DEFINITIONS.—In this section, the following  
 7        definitions shall apply:

8                “(1) FINANCIAL INSTITUTION.—The term ‘fi-  
 9        nancial institution’—

10                “(A) has the same meaning as in section  
 11                20; and

12                “(B) in addition, has the same meaning as  
 13                in section 5312(a)(2) of title 31, United States  
 14                Code.

15                “(2) IDENTIFICATION DOCUMENT.—The term  
 16        ‘identification document’ has the same meaning as  
 17        in section 1028(d).

18                “(3) MEANS OF IDENTIFICATION.—The term  
 19        ‘means of identification’ has the same meaning as in  
 20        section 1028(d).”.

21        (b) TECHNICAL AND CONFORMING AMENDMENTS.—

22                (1) TITLE 18, UNITED STATES CODE.—Section  
 23        1956(e)(7)(D) of title 18, United States Code, is  
 24        amended by striking “1014 (relating to fraudulent  
 25        loan” and inserting “section 1008 (relating to false

1 statements concerning the identity of customers of  
 2 financial institutions), section 1014 (relating to  
 3 fraudulent loan”.

4 (2) TABLE OF SECTIONS.—The table of sections  
 5 for chapter 47 of title 18, United States Code, is  
 6 amended by inserting after the item relating to sec-  
 7 tion 1007 the following:

“1008. False statements concerning the identity of customers of financial insti-  
 tutions.”.

8 **SEC. 308. FORFEITURE OF FUNDS IN UNITED STATES**  
 9 **INTERBANK ACCOUNTS.**

10 (a) FORFEITURE FROM UNITED STATES INTERBANK  
 11 ACCOUNT.—Section 981 of title 18, United States Code,  
 12 is amended by adding at the end the following:

13 “(k) INTERBANK ACCOUNTS.—

14 “(1) IN GENERAL.—For the purpose of a for-  
 15 feiture under this section or under the Controlled  
 16 Substances Act (21 U.S.C. 801 et seq.), if funds are  
 17 deposited into an account at a foreign bank, and  
 18 that foreign bank has an interbank account in the  
 19 United States with a covered financial institution (as  
 20 defined in section 5318A of title 31), the funds shall  
 21 be deemed to have been deposited into the interbank  
 22 account in the United States, and any restraining  
 23 order, seizure warrant, or arrest warrant in rem re-  
 24 garding the funds may be served on the covered fi-

1       nancial institution, and funds in the interbank ac-  
2       count, up to the value of the funds deposited into  
3       the account at the foreign bank, may be restrained,  
4       seized, or arrested.

5           “(2) NO REQUIREMENT FOR GOVERNMENT TO  
6       TRACE FUNDS.—If a forfeiture action is brought  
7       against funds that are restrained, seized, or arrested  
8       under paragraph (1), it shall not be necessary for  
9       the Government to establish that the funds are di-  
10      rectly traceable to the funds that were deposited into  
11      the foreign bank, nor shall it be necessary for the  
12      Government to rely on the application of section  
13      984.

14          “(3) CLAIMS BROUGHT BY OWNER OF THE  
15      FUNDS.—If a forfeiture action is instituted against  
16      funds restrained, seized, or arrested under para-  
17      graph (1), the owner of the funds deposited into the  
18      account at the foreign bank may contest the for-  
19      feiture by filing a claim under section 983.

20          “(4) DEFINITIONS.—For purposes of this sub-  
21      section, the following definitions shall apply:

22           “(A) INTERBANK ACCOUNT.—The term  
23      ‘interbank account’ has the same meaning as in  
24      section 984(c)(2)(B).

25           “(B) OWNER.—

1 “(i) IN GENERAL.—Except as pro-  
2 vided in clause (ii), the term ‘owner’—

3 “(I) has the same meaning as in  
4 section 983(d)(6); and

5 “(II) does not include any foreign  
6 bank or other financial institution act-  
7 ing as an intermediary in the transfer  
8 of funds into the interbank account  
9 and having no ownership interest in  
10 the funds sought to be forfeited.

11 “(ii) EXCEPTION.—The foreign bank  
12 may be considered the ‘owner’ of the funds  
13 (and no other person shall qualify as the  
14 owner of such funds) only if—

15 “(I) the basis for the forfeiture  
16 action is wrongdoing committed by  
17 the foreign bank; or

18 “(II) the foreign bank estab-  
19 lishes, by a preponderance of the evi-  
20 dence, that prior to the restraint, sei-  
21 zure, or arrest of the funds, the for-  
22 eign bank had discharged all or part  
23 of its obligation to the prior owner of  
24 the funds, in which case the foreign  
25 bank shall be deemed the owner of the



1 funds to the extent of such discharged  
2 obligation.”.

3 (b) BANK RECORDS.—Section 5318 of title 31,  
4 United States Code, is amended by adding at the end the  
5 following:

6 “(i) BANK RECORDS RELATED TO ANTI-MONEY  
7 LAUNDERING PROGRAMS.—

8 “(1) DEFINITIONS.—For purposes of this sub-  
9 section, the following definitions shall apply:

10 “(A) APPROPRIATE FEDERAL BANKING  
11 AGENCY.—The term ‘appropriate Federal bank-  
12 ing agency’ has the same meaning as in section  
13 3 of the Federal Deposit Insurance Act (12  
14 U.S.C. 1813).

15 “(B) INCORPORATED TERMS.—The terms  
16 ‘correspondent account’, ‘covered financial insti-  
17 tution’, and ‘foreign bank’ have the same mean-  
18 ings as in section 5318A.

19 “(2) 48-HOUR RULE.—Not later than 48 hours  
20 after receiving a request by an appropriate Federal  
21 banking agency for information related to anti-  
22 money laundering compliance by a covered financial  
23 institution or a customer of such institution, a cov-  
24 ered financial institution shall provide to the appro-  
25 priate Federal banking agency, or make available at

1 a location specified by the representative of the ap-  
2 propriate Federal banking agency, information and  
3 account documentation for any account opened,  
4 maintained, administered or managed in the United  
5 States by the covered financial institution.

6 “(3) FOREIGN BANK RECORDS.—

7 “(A) SUMMONS OR SUBPOENA OF  
8 RECORDS.—

9 “(i) IN GENERAL.—The Secretary or  
10 the Attorney General may issue a sum-  
11 mons or subpoena to any foreign bank that  
12 maintains a correspondent account in the  
13 United States and request records related  
14 to such correspondent account.

15 “(ii) SERVICE OF SUMMONS OR SUB-  
16 POENA.—A summons or subpoena referred  
17 to in clause (i) may be served on the for-  
18 eign bank in the United States if the for-  
19 eign bank has a representative in the  
20 United States, or in a foreign country pur-  
21 suant to any mutual legal assistance trea-  
22 ty, multilateral agreement, or other request  
23 for international law enforcement assist-  
24 ance.

25 “(B) ACCEPTANCE OF SERVICE.—

1 “(i) MAINTAINING RECORDS IN THE  
2 UNITED STATES.—Any covered financial  
3 institution which maintains a cor-  
4 respondent account in the United States  
5 for a foreign bank shall maintain records  
6 in the United States identifying the owners  
7 of such foreign bank and the name and ad-  
8 dress of a person who resides in the United  
9 States and is authorized to accept service  
10 of legal process for records regarding the  
11 correspondent account.

12 “(ii) LAW ENFORCEMENT REQUEST.—  
13 Upon receipt of a written request from a  
14 Federal law enforcement officer for infor-  
15 mation required to be maintained under  
16 this paragraph, the covered financial insti-  
17 tution shall provide the information to the  
18 requesting officer not later than 7 days  
19 after receipt of the request.

20 “(C) TERMINATION OF CORRESPONDENT  
21 RELATIONSHIP.—

22 “(i) TERMINATION UPON RECEIPT OF  
23 NOTICE.—A covered financial institution  
24 shall terminate any correspondent relation-  
25 ship with a foreign bank not later than 10

1 days after receipt of written notice from  
2 the Secretary or the Attorney General that  
3 the foreign bank has failed—

4 “(I) to comply with a summons  
5 or subpoena issued under subpara-  
6 graph (A); or

7 “(II) to initiate proceedings in a  
8 United States court contesting such  
9 summons or subpoena.

10 “(ii) LIMITATION ON LIABILITY.—A  
11 covered financial institution shall not be  
12 liable to any person in any court or arbi-  
13 tration proceeding for terminating a cor-  
14 respondent relationship in accordance with  
15 this subsection.

16 “(iii) FAILURE TO TERMINATE RELA-  
17 TIONSHIP.—Failure to terminate a cor-  
18 respondent relationship in accordance with  
19 this subsection shall render the covered fi-  
20 nancial institution liable for a civil penalty  
21 of up to \$10,000 per day until the cor-  
22 respondent relationship is so terminated.”.

23 (c) AUTHORITY TO ORDER CONVICTED CRIMINAL TO  
24 RETURN PROPERTY LOCATED ABROAD.—

1           (1) FORFEITURE OF SUBSTITUTE PROPERTY.—

2           Section 413 of the Controlled Substances Act (21  
3           U.S.C. 853) is amended by striking subsection (p)  
4           and inserting the following:

5           “(p) FORFEITURE OF SUBSTITUTE PROPERTY.—

6           “(1) IN GENERAL.—Paragraph (2) of this sub-  
7           section shall apply, if any property described in sub-  
8           section (a), as a result of any act or omission of the  
9           defendant—

10           “(A) cannot be located upon the exercise of  
11           due diligence;

12           “(B) has been transferred or sold to, or  
13           deposited with, a third party;

14           “(C) has been placed beyond the jurisdic-  
15           tion of the court;

16           “(D) has been substantially diminished in  
17           value; or

18           “(E) has been commingled with other  
19           property which cannot be divided without dif-  
20           ficulty.

21           “(2) SUBSTITUTE PROPERTY.—In any case de-  
22           scribed in any of subparagraphs (A) through (E) of  
23           paragraph (1), the court shall order the forfeiture of  
24           any other property of the defendant, up to the value

1 of any property described in subparagraphs (A)  
2 through (E) of paragraph (1), as applicable.

3 “(3) RETURN OF PROPERTY TO JURISDIC-  
4 TION.—In the case of property described in para-  
5 graph (1)(C), the court may, in addition to any  
6 other action authorized by this subsection, order the  
7 defendant to return the property to the jurisdiction  
8 of the court so that the property may be seized and  
9 forfeited.”.

10 (2) PROTECTIVE ORDERS.—Section 413(e) of  
11 the Controlled Substances Act (21 U.S.C. 853(e)) is  
12 amended by adding at the end the following:

13 “(4) ORDER TO REPATRIATE AND DEPOSIT.—

14 “(A) IN GENERAL.—Pursuant to its au-  
15 thority to enter a pretrial restraining order  
16 under this section, including its authority to re-  
17 strain any property forfeitable as substitute as-  
18 sets, the court may order a defendant to repa-  
19 triate any property that may be seized and for-  
20 feited, and to deposit that property pending  
21 trial in the registry of the court, or with the  
22 United States Marshals Service or the Sec-  
23 retary of the Treasury, in an interest-bearing  
24 account, if appropriate.

“(B) FAILURE TO COMPLY.—Failure to comply with an order under this subsection, or an order to repatriate property under subsection (p), shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines.”.

## **TITLE IV—ANTICORRUPTION MEASURES**

### **SEC. 401. CORRUPTION OF FOREIGN GOVERNMENTS AND RULING ELITES.**

It is the sense of the Congress that, in deliberations between the United States Government and any other country on money laundering and corruption issues, the United States Government should—

(1) emphasize an approach that addresses not only the laundering of the proceeds of traditional criminal activity but also the increasingly endemic problem of governmental corruption and the corruption of ruling elites;

(2) encourage the enactment and enforcement of laws in such country to prevent money laundering and systemic corruption;

1           (3) make clear that the United States will take  
2           all steps necessary to identify the proceeds of foreign  
3           government corruption which have been deposited in  
4           United States financial institutions and return such  
5           proceeds to the citizens of the country to whom such  
6           assets belong; and

7           (4) advance policies and measures to promote  
8           good government and to prevent and reduce corrup-  
9           tion and money laundering, including through in-  
10          structions to the United States Executive Director of  
11          each international financial institution (as defined in  
12          section 1701(c) of the International Financial Insti-  
13          tutions Act) to advocate such policies as a system-  
14          atic element of economic reform programs and ad-  
15          vice to member governments.

16 **SEC. 402. SUPPORT FOR THE FINANCIAL ACTION TASK**  
17 **FORCE ON MONEY LAUNDERING.**

18       It is the sense of the Congress that—

19           (1) the United States should continue to ac-  
20           tively and publicly support the objectives of the Fi-  
21           nancial Action Task Force on Money Laundering  
22           (hereafter in this section referred to as the  
23           “FATF”) with regard to combating international  
24           money laundering;



1           (2) the FATF should identify noncooperative  
2       jurisdictions in as expeditious a manner as possible  
3       and publicly release a list directly naming those ju-  
4       risdictions identified;

5           (3) the United States should support the public  
6       release of the list naming noncooperative jurisdic-  
7       tions identified by the FATF;

8           (4) the United States should encourage the  
9       adoption of the necessary international action to en-  
10      courage compliance by the identified noncooperative  
11      jurisdictions; and

12          (5) the United States should take the necessary  
13      countermeasures to protect the United States econ-  
14      omy against money of unlawful origin and encourage  
15      other nations to do the same.

○